

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FRANKIE J. OWEN,

Plaintiff,

v.

Civ. No. 19-1222 KG-SMV

CURRY COUNTY DETENTION CENTER,

Defendant.

ORDER OF DISMISSAL


This matter is before the Court following Plaintiff's repeated failure to cure deficiencies in this civil rights action. Plaintiff is incarcerated at the Curry County Detention Center (CCDC). He initiated this action with a handwritten letter. The letter alleges the CCDC "Delta Pod" features hazardous and unhealthy conditions. (Doc. 1) at 1. On January 2, 2020, the Court entered its first Order to Cure Deficiencies. (Doc. 2). The Order observed that Plaintiff's pleading was not signed under penalty of perjury and did not appear on the proper 42 U.S.C. § 1983 form. Plaintiff also failed to prepay the \$400 filing fee or file an *in forma pauperis* motion. The Court directed him to cure these deficiencies within thirty days. The Clerk's Office also mailed Plaintiff a form complaint and *in forma pauperis* motion, along with instructions. The instructions explain that any *in forma pauperis* motion must be accompanied by a six-month inmate account statement.

Plaintiff complied, in part. He filed an amended complaint and *in forma pauperis* motion, but he failed to submit a six-month inmate account statement. (Docs. 3, 4). The inmate account statement is required by statute. *See* 28 U.S.C. § 1915(a)(2). On March 25,

2020, the Court entered a second Order directing Plaintiff to file his account statement. (Doc. 5). Plaintiff was warned that if he failed to timely comply, the Court would dismiss this case. *Id.* at 1. The deadline to file the account statement was April 24, 2020. Plaintiff did not comply or otherwise respond to the Order. Accordingly, the Court will dismiss this action pursuant to Fed. R. Civ. P. 41(b). *See Olsen v. Mapes*, 333 F.3d 1199, 1204 n. 3 (10th Cir. 2003) (“Rule 41(b) ... has long been interpreted to permit courts to dismiss actions *sua sponte* for a plaintiff’s failure to prosecute or comply with the ... court’s orders.”).

IT IS ORDERED:

1. Plaintiff’s Civil Rights Complaint (Doc. 1) is dismissed without prejudice.
2. The Court will enter a separate judgment closing the civil case.



UNITED STATES DISTRICT JUDGE